

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE AUTODESK, INC. DERIVATIVE  
LITIGATION

No. C 06-7185 PJH

**ORDER**

THIS ORDER RELATES TO:  
ALL ACTIONS

The court dismissed the first amended complaint in the above-entitled shareholder derivative action on December 15, 2008, for failure to allege demand futility with the required specificity. The dismissal was with leave to amend, and the court set January 23, 2009 as the deadline for amending the complaint.

Now before the court is plaintiff's administrative motion for an extension of time to file the second amended complaint, or in the alternative, for an order dismissing the first amended complaint without prejudice and without leave to amend. Defendant Autodesk, Inc., opposes the motion. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby GRANTS the request for an extension in part and DENIES it in part, and DENIES the alternative motion for a dismissal without prejudice and without leave to amend.

The court will extend the deadline two weeks, to February 6, 2009. If no amended complaint is filed by that date, the court will dismiss the action with prejudice. In the alternative, plaintiffs may waive amendment, rest on the first amended complaint, and request dismissal with prejudice.

1 Plaintiff has also filed a motion to stay the proceedings pending completion of a  
2 books and records examination of Autodesk, Inc. pursuant to Delaware Corporations Code  
3 § 220. The motion is noticed for hearing on February 25, 2009. In its opposition to  
4 plaintiff's administrative motion for an extension of time to file the second amended  
5 complaint, Autodesk indicated that it opposes the motion for a stay.

6 The court sees no reason for further briefing, and DENIES the motion. Plaintiff has  
7 established neither that she is entitled to a stay under the circumstances of this case, nor  
8 that the information she seeks will enable her to allege demand futility in a subsequent  
9 amended complaint. The February 25, 2009 hearing date is hereby VACATED.

10  
11 **IT IS SO ORDERED.**

12 Dated: January 23, 2009



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PHYLLIS J. HAMILTON  
United States District Judge